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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/702,625	08/23/96	KLUTH	H1215/1556PC

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12M1/0328

EXAMINER
COONEY, J

ART UNIT	PAPER NUMBER
1207	

DATE MAILED: 03/28/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/702,625

Applicant(s)

Kluth et al.

Examiner

John Cooney

Group Art Unit

1207



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 15-68 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 15-68 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1207

***35 USC 112, Second Paragraph***

Claims 15-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants' claims are confusing as to intent, because, while applicants' are claiming an article, it can not be determined if what applicants' are claiming is the apparatus for making their materials, the compositions prepared, or the process for preparing the compositions made. Applicants' need to amend their claims to particularly recite the type of invention which is intended to be embodied by their claims.

***35 USC 102/103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1207

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-68 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Markusch et al.

Markusch et al. discloses methods for formulating prepolymers for use in the synthesis of polyurethanes which are combined with conventional additives for urethane synthesis and wherein the prepolymers are prepared having reduced contents of free monomeric diisocyanate pre-reactant (see the entire document). Although blowing agents are not particularly recited, Markusch et al. does teach the use of solvents which inherently possess blowing agent properties and effects. However, if such is not anticipated, then it would have been obvious for one having ordinary skill in the art to have utilized blowing agents in the preparations of Markusch et al., which are well known conventional additives in the urethane arts, for the purpose of enabling and imparting expandability in the preparations realized in order to arrive at the products and articles of applicants' claims in the absence of a showing of new or unexpected results.

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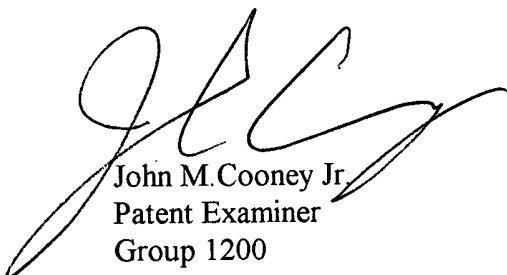
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bauriedel is cited for its disclosure of relevant preparations in the art.

*Correspondence*

Inquiries should be directed to John Cooney at (703)308-2433 from 9AM-5PM, daily. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached at (703)308-2462. The **FORMAL** FAX phone number for the this Group is (703)-308-4556, though examiner may be most conveniently FAXed at (703)-308-4734 for expedient review of proposals. Any status or non-merit based inquiries should be directed to the Group receptionist at (703)308-1235.



John M. Cooney Jr.  
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3-22-97

